BEFORE THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE.

Appeal No. 133 *of* 1904-05.

Appellants	*Versus*	Respondents
1. Lingegowda 2. Thejuregowda } sons of 3. Hutchegowda } Lakkegowda 4. Marigowda		1. Lingegowda, son of Devegowda 2. Hutchegowda 3. Javaregowda 4. Hutcha 5. Lakka 6. Maria } Minors. 7. Thejura

Subject.

Appeal against the Mysore Deputy Commissioner's order dismissing their appeal against the Assistant Commissioner's judgment in their suit for the declaration of their right to the pateli office of the villages of Kuppe, Muddanahalli, Chikkakoppal and Nalahanta in the Yedatore Taluk.

The facts of the case appear sufficiently from the following decision :—

Decision.

This case relates to the pateli of the village of Kuppe with certain hamlets attached to it. The office in question formed the subject of certain proceedings in 1894 and 1895 with the result that the Government in their Order No. 1532 – Pet. F. 20-95, dated the 1st August 1895, held that the 1st respondent had been rightly registered as hakdar in succession to his deceased father Dyavegowda, and that during his minority the 1st appellant Lingegowda should continue as his gumasta in preference to the Deputy Commissioner's nominee Hutchegowda. This was a final pronouncement not open to revision by a regular suit. It is true that the Deputy Commissioner in passing the order then appealed from had preferred the 1st appellant to such a suit for the establishment of his hak. The Government, however, did not endorse that reservation, and no suit therefore lies to set aside the orders passed by them finally disposing of the matter. The appellants seek to put upon the order of Government an interpretation which it clearly does not admit of. Their further contention that because a civil suit is inadmissible under Section 221 of the Revenue Regulation, therefore a suit on the revenue side is by implication maintainable, is on the face of it untenable and must be rejected. On this ground Government hold that the appeal must fail.

The appeal is accordingly rejected.

No. R. 7270—*R. M.* 667-04-4, *dated* 14*th December* 1905.

Copy of the above is forwarded to the Deputy Commissioner, Mysore District, together with the records received with his letter No. 959, dated the 29th April 1905.

Appeal No. 158 *of* 1903-04.

Appellant (Defendant)	*Versus*	*Respondents* (Plaintiffs)
Kapinaiya of Huluvanahalli, Magadi Taluk		1. Tippaiya (since dead) 2. Kariyanna, brother of (1) (sons of Kempe gowda).

Subject.

Appeal against the judgment and decree of the Deputy Commissioner of the Bangalore District, reversing the order of the Assistant Commissioner and allowing the claim of the respondents to the pateli office of Huluvanahalli, Ganapathihalli and Madapatna villages in the Magadi Taluk.

The facts of the case appear sufficiently from the following :—

Decision.

This case relates to a pateli office. That the hak belongs to the plaintiffs' (respondents') family has been clearly and satisfactorily established. From the Assistant Commissioner's finding on this point, supported by the Deputy Commissioner, Government see no reason to dissent. The plaintiffs' father held the office until 1878 when he was removed from it in consequence of his complicity in a case of dacoity. The offence was not one which under the

Rules entailed a forfeiture of the hak. Nor did the then Deputy Commissioner pass any order depriving the man's family of the hak. On the contrary the record shows that he intended that one of the sons of the dismissed patel should succeed to the office on his attaining majority and that till then the Amildar's nominee, the appellant's deceased brother Nanjundaiya be appointed to act. The sannad given to Nanjundaiya, did not operate either to confer on him a heritable right or to exclude the plaintiffs' family from the pateli for all time to come. It evidenced a personal appointment which naturally terminated on Nanjundaiya's demise in 1895. The plaintiffs' lost no time in asserting their title to the office on Nanjundaiya's death. One of them further held the office for a few years during Nanjundaiya's suspension. Under these circumstances the Deputy Commissioner has rightly held that the claim is entitled to prevail and that the appellant has no valid answer to it. The Government are of opinion that the appeal must fail and it is accordingly dismissed.

Memo No. R. 7408—*P. F.* 272-03-8, *dated* 16*th December* 1905.

Copy of the above is forwarded to the Deputy Commissioner of the Bangalore District, together with the records received with his letter No. 268, dated the 18th September 1905.

Appeal No. 5 *of* 1905-06.

Appellant	*Versus*	Respondent
Hanumappa, minor, represented by his adoptive mother and guardian Mudiyavva.		Gurulingappa.

Subject.

Claim to the pateli office of Alur village in the Davangere Taluk.

The facts of the case appear sufficiently from the following decision :—

Decision.

The pateli in question was held by one Murigappa who died issueless in 1902. His widow Mudiyavva claimed the office on the ground that she was his rightful heir and had further been authorized by him to take a boy in adoption. Her claim was opposed by the deceased's divided step-brother the respondent. The Deputy Commissioner gave the office to the respondent. Shortly afterwards Mudiyavva adopted the appellant Hanumappa, a lad of about twelve or thirteen years. The adoption is admitted. Its validity however is questioned on the ground that the alleged authority is false and that there was also no consent from the *gnatees* of the deceased. An issue was sent down to the Deputy Commissioner with instructions to receive evidence and submit a finding. The Assistant Commissioner to whom the case was referred by the Deputy Commissioner has admitted all the evidence produced by the parties and after a careful examination of it recorded a finding that the adoption was one made both under the deceased's authority and with the consent of the *gnatees*, one of the latter being the adopted boy's natural father himself. With this finding Government are in entire agreement. The evidence is conclusive. What more natural and probable than that, being plague stricken and apprehending that his end was approaching, Murigappa should have summoned his near relatives and friends to his bedside and in their presence asked his wife to adopt a boy so as to perpetuate his family and prevent its extinction? The respondent's statement that he was not given an opportunity of adducing all the evidence available or that the Assistant Commissioner was prejudiced against him, is wholly devoid of foundation and must be rejected.

The respondent's appointment made in spite of Mudiyavva's protest and when the adoption by her of a son pursuant to her husband's authority was in prospect, cannot be supported and must be set aside in favor of the appellant who should be appointed in succession to Murigappa and during whose minority suitable arrangements should be made by the Deputy Commissioner in consultation with his adoptive mother and guardian for the proper performance of the duties of patel.

Ordered accordingly.

No. R. 7249—*Mis.* 697-04-7, *dated the* 14*th December* 1905.

Copy of the above is forwarded to the Deputy Commissioner, Chitaldrug District, together with the records received with his letter No. 274, dated the 16th November 1905.

B. K. VENKATA VARADA IYENGAR,
Secy. to Govt., Gen. & Rev. Dept.